IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Bail Appl..No. 5279 of 2007()

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CRIME NO. 259/07 OF KUNNAMKULAM POLICE STATION

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PETITIONER: 3RD ACCUSED:

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C.A.SURENDRAN, AGED 50, CHANDANAPARAMBIL HOUSE, THALAKOTTUKARA, P.O.KECHERY, THRISSUR DISTRICT.`

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE, KUNNAMKULAM POLICE STATION THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 5279 of 2007

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Dated this the 11th day of September, 2007

**O R D E R**

Application for anticipatory bail. The petitioner is the third accused in a crime registered, inter alia, for offences punishable under Sections 466 and 420 I.P.C. The crux of the allegations is that a forged birth certificate was brought into existence in the name of the first accused, a person now in Netherland, at the instance of his uncle/A2 by the petitioner/A3. The forged birth certificate was brought into existence to make it appear that the local Grama Panchayat had issued the same. Investigation is in progress. The petitioner apprehends imminent arrest. Initially he was not arrayed as an accused. It is in the course of investigation that he has been arrayed as the third accused.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner has unnecessarily been dragged into the controversy. He has nothing to do with the alleged forgery of the birth certificate in respect of the first accused.

3. The learned Prosecutor opposes the application. He submits that satisfactory indications have been collected to show that the petitioner was the one who had the crucial role to play in bringing into existence the forged birth certificate. There are indications to suggest that he had purchased the stamp paper and had entrusted the same to the D.T.P. operator also. The petitioner has to be interrogated and it has to be ascertained whether any others have contumacious role in the culpable act perpetrated by him. The petitioner may not be granted anticipatory bail. He may be directed to appear before the Investigator or the learned Magistrate having jurisdiction and thereafter seek regular bail in the ordinary course, submits the learned Prosecutor.

4. I find merit in the opposition raised by the learned Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is an eminently fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

**(R. BASANT)**
Judge

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